



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[NRC-2009-0090]

RIN 3150-AI58

Fitness-for-Duty Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory basis and preliminary proposed rule language.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) will periodically make publicly available a series of documents related to the ongoing proposed rulemaking effort to amend its regulations regarding Fitness-for-Duty Programs. The NRC does not plan to institute a public comment period for these materials when making them publicly available. This document announces the availability of two rulemaking documents: the regulatory basis and preliminary proposed rule language for requiring personnel performing certain quality control and quality verification (QC/QV) duties to comply with the work hour provisions. The availability of these documents provides increased awareness to interested stakeholders and provides preparatory material for future public meetings.

DATES: At this time, the NRC is not soliciting formal public comments on the materials identified in this document. There will be an opportunity for formal public comment on the proposed rule when it is published in the *Federal Register*.

ADDRESSES: Please refer to Docket ID NRC-2009-0090 when contacting the NRC about the availability of information for this document. You may access information and comment submittals related to this document, which the NRC possesses and are publicly available, by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2009-0090.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Scott C. Sloan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1619; e-mail: Scott.Sloan@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

As the NRC continues its ongoing proposed rulemaking effort to amend portions of part 26 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Fitness-for-Duty Programs,” subpart I, “Managing Fatigue,” the NRC will periodically make preliminary documents publicly available on the Federal rulemaking Web site, www.regulations.gov, under Docket ID NRC-2009-0090. By making these documents publicly available, the NRC seeks to inform stakeholders of the current status of the NRC’s rulemaking development activities and provide preparatory material for future public meetings. The NRC is not instituting a public comment period on these materials, but the public is encouraged to participate in related public meetings. In addition, the public will be given opportunity to provide comments on the proposed rule upon its publication in the *Federal Register*.

II. Petitions for Rulemaking

A discussion of a September 28, 1999, petition for rulemaking (PRM), PRM-26-2 (64 FR 67205; December 1, 1999), is included in the Regulatory Basis for this proposed rulemaking. This PRM was partially considered in the March 31, 2008 (73 FR 16965), Fitness for Duty Programs final rule. In this proposed rulemaking, the NRC is considering PRM-26-3 (76 FR 28192; May 16, 2011), PRM-26-5 (76 FR 28192; May 16, 2011), and PRM-26-6 (76 FR 28191; May 16, 2011).

III. Publicly Available Documents

The NRC has posted for public availability on www.regulations.gov, the regulatory basis for requiring personnel performing certain quality control and quality verification (QC/QV) duties

to comply with the work hour provisions of 10 CFR part 26, subpart I. This regulatory basis was completed in 2010 and documents the reasons why the NRC determined rulemaking was the appropriate course of action to remedy a regulatory shortcoming.

When the regulatory basis was completed, the NRC had not yet begun the rulemaking that provides a voluntary alternative to the Minimum Days Off (MDO) requirements found in § 26.205(d)(3). That alternative became effective on August 11, 2011 (76 FR 43534).

However, initial technical analysis indicates that the alternative to the MDO requirements does not change the basis for this rulemaking.

In addition, the NRC has posted preliminary proposed rule language related to these QC/QV personnel on www.regulations.gov. This preliminary proposed rule language contains one portion of the NRC's planned proposed changes. This language does not represent a final NRC staff position, nor has it been reviewed by the Commission. Therefore, the preliminary proposed rule language may undergo significant revision during the rulemaking process.

The NRC is not requesting formal public comments on the regulatory basis or the preliminary proposed rule language. The NRC may post additional materials, including other preliminary rule language, to the Federal rulemaking Web site at <https://www.regulations.gov>, under Docket ID NRC-2009-0090. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) navigate to the docket folder (NRC-2009-0090); 2) click the "E-mail Alert" link; and 3) enter your e-mail address and select how frequently you would like to receive e-mails (daily, weekly, or monthly).

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices

appropriate to the subject or field and the intended audience. Although regulations are exempt under the Act, the NRC is applying the same principles to its rulemaking documents. Therefore, the NRC has written this document, including the preliminary proposed rule language, to be consistent with the Plain Writing Act. There will be an opportunity for formal public comment on the use of plain language when the proposed rule is published in the *Federal Register*.

Dated at Rockville, Maryland, this August 22, 2012.

For the Nuclear Regulatory Commission.

/RA/

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